

# EXHIBIT HH

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO

IN RE: \* PROMESA TITLE III  
\*  
THE FINANCIAL OVERSIGHT AND \* CASE NO. 3:17-bk-03283 (LTS)  
MANAGEMENT BOARD FOR PUERTO RICO \*  
\*  
As representatives of \*  
\*  
THE COMMONWEALTH OF PUERTO RICO \*  
RICO; Et Al. \*  
\*  
Debtor \*  
\*\*\*\*\*  
IN RE: \* PROMESA TITLE III  
\*  
THE FINANCIAL OVERSIGHT AND \* CASE NO. 3:17-cv-01685 (LTS)  
MANAGEMENT BOARD FOR PUERTO RICO \*  
\*  
As representative of \* CASE NO. 3:17-bk-03566 (LTS)  
\*  
THE EMPLOYEES RETIREMENT SYSTEM \*  
OF THE GOVERNMENT OF THE COMMON- \*  
WEALTH OF PUERTO RICO \*  
\*  
Debtor \*  
\*\*\*\*\*

DEPOSITION OF MR. MOHAMMAD SALEH YASSIN-MAHMUD

DATE : MAY 29, 2019  
TIME : 9:03 a.m.  
CLIENT : JONES DAY  
ADDRESS : 600 Brickell Avenue, Suite 3300  
Miami, Florida  
HELD AT : Delgado & Fernández  
Professional Offices Complex  
1001 San Roberto Street  
Second floor  
San Juan, Puerto Rico

1 MR. STEWART:

2 Q Good morning, Mohammad.

3 A Good morning, Geoff.

4 Q I am Geoff Stewart, I represent various ERS  
5 bond holders in this case. Have you ever given a  
6 deposition before?

7 A Yes.

8 Q So you're aware of how this works.

9 A Yes.

10 Q Okay. Before we get going two things that I  
11 think can, I'm sure you know, one is if you don't  
12 understand one of my questions just tell me, I'll give  
13 you, repeat the question and second, if you don't know the  
14 answer just tell me because it doesn't do me, it doesn't  
15 do you, it doesn't do your counsel any good to speculate.  
16 I'm just interested in what you know. There are plenty of  
17 other people who know things that I can ask them about  
18 things if you don't happen to know them. Could you repeat  
19 your name for the record?

20 A Yes, my name is Mohammad Saleh Yassin.

21 Q And what is your, where do you live?

22 A I live in San Juan, Puerto Rico.

23 Q And you are represented today by counsel.

24 A Yes, I am.

25 Q Who are your counsels?

1 A Bill Sushon from O'Melveny & Myers.

2 Q Okay. And are you employed?

3 A Yes, I am.

4 Q What is your position right now?

5 A I'm currently the director of the fiscal  
6 agency, AFAF.

7 Q Okay. Tell me where you, tell me about your  
8 education starting with college.

9 A Yes, I have a Bachelors Degree in Economics  
10 from Harvard University, Harvard college and I have an MBA  
11 in Finance from Wharton School of Business at the  
12 University of Pennsylvania and I have a JD in, in law from  
13 the University of Puerto Rico.

14 Q Okay. What year did you get your Bachelors  
15 Degree?

16 A In '93.

17 Q And your degree from Wharton?

18 A 2000.

19 Q And your law degree?

20 A 2014.

21 Q Okay. I understand you're a member of the, of  
22 the bar of New York.

23 A And the one in Puerto Rico.

24 Q When did you join those two bars?

25 A The bar of Puerto Rico was in February, I

1 Q And what sort of matters did you work on with  
2 the ERS?

3 A Several matters, basically from, related to  
4 pensioners funds meaning.

5 Q Okay. Fair to say it was the matters later  
6 reflected in Joint Resolution 188 and ACT 106?

7 MR. SUSHON:

8 Objection to the form. You can answer.

9 MR. STEWART:

10 Q You can answer.

11 A Among others.

12 Q Okay. What are some of the others?

13 A The actual consolidation of the operations and  
14 restructuring.

15 Q Anything else?

16 A No.

17 Q Actually let me do this next, it's marked as  
18 Exhibit 1 of the 30(b)(6) subpoena.

19 MR. SUSHON:

20 Thanks Geoff.

21 MS. DALE:

22 Thanks Geoff.

23 MR. STEWART:

24 Q And this will be Exhibit 2, it's going to be  
25 the objections to the 30(b)(6) subpoena. Mohammad, do you

1 MR. SUSHON:

2 I'm going to object, that's beyond the scope of the  
3 topics but you can go ahead and answer, Mohammad.

4 MR. STEWART:

5 Q Yeah.

6 A Yes.

7 Q Okay. Is ERS still in existence?

8 A Yes.

9 Q What does it do today?

10 MR. SUSHON:

11 Objection, that's also beyond the scope but you can  
12 answer.

13 DEPONENT:

14 My understanding is that it provides services to the  
15 retirement Board.

16 MR. STEWART:

17 Q Okay. Are you a member of the retirement Board?

18 A No.

19 Q Okay. And the chair at the Board is from AAFAF,  
20 correct?

21 A Yes, I was executive director of the agency by  
22 that time.

23 Q So who is that?

24 A I'm sorry?

25 Q Who is the, who is the head of the retirement

1 A Yes.

2 Q Okay. Do you have, do you know the difference  
3 between those two plans?

4 A Not in particular details, no.

5 Q In 1999 a defined contribution plan was added?

6 A I believe so.

7 Q And that's called System 2000?

8 A That, I believe so.

9 Q Do you know the difference between the plan  
10 administer the, the plan described under System 2000 and  
11 the plans under the two defined benefit plans?

12 A I'm not sure, I don't understand the question,  
13 could you be more specific?

14 Q System 2000 was a defined contribution plan,  
15 correct?

16 A Yes.

17 Q Do you know the difference between the defined  
18 contribution plan and the defined benefit plan?

19 A Yes.

20 Q Okay. And just very briefly what is your  
21 understanding of the difference?

22 A I don't, to be clear I'm not familiar with the  
23 details of the two systems but in general terms not  
24 specific to, to the ones that you cite a defined benefit  
25 plan is people may pay into, make contributions with the

1 promise of getting specific benefits at some point in the  
2 future...

3 Q Mhm.

4 A ...and a defined contribution plan is you make  
5 contributions into a specific type of account or corpus  
6 and that grows and you basically get paid from that.

7 Q Okay. Like a, IRA would be a defined  
8 contribution.

9 A A, 401K's.

10 Q 401K?

11 A Similar.

12 Q And before June of 2017 what did you understand  
13 the role was of ERS with respect to those plans?

14 MR. SUSHON:

15 Objection to form.

16 MR. STEWART:

17 Q You can answer it if you understand.

18 A I'm, I'm not quite sure what, when you...

19 Q Okay. I'm going to ask you now only up until  
20 June 2017.

21 A Okay.

22 Q Okay. But before June 2017 what was the ERS's  
23 job when it came to those plans that you and I just talked  
24 about?

25 A Well...



1 MR. SUSHON:

2 Which plans are those, Geoff, I just...

3 MR. STEWART:

4 The defined benefit plans and the defined  
5 contribution plans.

6 MR. SUSHON:

7 Okay.

8 DEPONENT:

9 The ones that it administered?

10 MR. STEWART:

11 Q Yes. So their job is to administer the plans?

12 A Yes.

13 Q What, what...

14 A Among other things.

15 Q Okay. Well, first of all what did it mean to  
16 administer plans?

17 A I believe that they were in a, receiving the  
18 contributions and inflow of cash and were investing that  
19 cash, was, were remitting payments and, to beneficiaries  
20 of, of, of the system.

21 Q Do you know if ERS paid the beneficiaries  
22 directly or whether some other part of the Puerto Rican  
23 government actually mad the payments?

24 MR. SUSHON:

25 Object to the form.

1 DEPONENT:

2 I'm, I'm not sure, that question should be asked to  
3 the ERS.

4 MR. STEWART:

5 Q Okay. You said that they administered the  
6 plans, ERS administered the plans among other things, what  
7 were the other things?

8 A As I told you they were investing the proxies  
9 they were, they had a lending operation, I believe, they  
10 did that to the beneficiaries of the system they, I  
11 believe they had sold part of that investment, loan, loans  
12 to private clients so I know they used to do some  
13 servicing those loans that they sold.

14 Q Okay.

15 A Those are...

16 Q Those are...

17 A ...those are ones that pop into my head at this  
18 moment.

19 Q I think you mentioned employer contributions a  
20 minute ago. What was your understanding...

21 A As I mentioned, contributions...

22 Q Contributions.

23 A ..and inflows in cash.

24 Q Okay. Let me ask, who made those contributions?

25 A You had different sources, you had I believe,

1 the different employers used to make contributions into  
2 the corpus, you had the employees by the law, there was a  
3 deduction made out of their, their paychecks which was  
4 also contributed into the system.

5 Q Mhm.

6 A I believe there was the AUC, that was  
7 contributing to the system...

8 Q Okay. What are AUC's...

9 A ...and I believe also...

10 Q ...sorry, I didn't meant to...

11 A ...there were some investment income...

12 Q Okay.

13 A ...and some income that may have come from,  
14 from their loan portfolio.

15 Q What is or was an AUC?

16 A I believe that's the additional, Additional  
17 Uniform Contribution. It was instituted as part of one of  
18 the reforms to, to shore up the, the corpus of the pension  
19 system.

20 Q Who, who made the AUC's?

21 A I believe the, the employers.

22 Q All of the employers?

23 A I'm not sure if it was all... it was a  
24 statutory mandate, so If you give me... show me the Act I  
25 can...

1 Q Have you heard of the law called 32, Act  
2 32213?

3 A Thirty two, honestly, I've heard I've heard  
4 about a lot of Acts, if you can show me the act I can, my  
5 preference to it.

6 Q It's not that important, during the month.

7 A Yes sir.

8 Q Do you know how the amount of the AUC's was  
9 set?

10 A No.

11 Q Did you understand that one of the ideas behind  
12 the AUC's was to make sure that ERS always had at least  
13 one billion dollars of liquidity?

14 MR. SUSHON:

15 Objection to the form. You can answer.

16 DEPONENT:

17 Yes.

18 MR. STEWART:

19 Q Do you know whether ERS did in fact always have  
20 that much liquidity?

21 A I don't.

22 Q Okay. I'm going back to the contributions for  
23 a minute. The contributions came from the Central  
24 Government, correct?

25

1 MR. SUSHON:

2 Objection. You can answer.

3 DEPONENT:

4 Depends on which one of the different inflows you're  
5 talking about.

6 MR. STEWART:

7 Q The, well, did the Central Government, was the  
8 central government responsible for paying AUC's?

9 A I believe yes, part of it.

10 Q And was the Central Government also responsible  
11 to pay contributions to ERS to fund its employees pension  
12 plans?

13 A It had, it was an employee that participated  
14 within the ERS, yes.

15 Q Did all agencies and instrumentalities of the  
16 Central Government participate in the ERS?

17 A I believe no, for example, UPR which is an  
18 instrumentality...

19 Q Mmhm.

20 A ...had it's own pension program.

21 Q Okay.

22 A ...and I believe also that PREPA which is the  
23 electric utility also had a separate pension program.

24 Q Okay.

25 A I also believe that, I think one of the, the

1 symphony orchestra or something like that, I mean that's  
2 like seventeen people or twenty people had also their own  
3 retirement program.

4 Q Okay. Back with those exceptions, the balance  
5 in the Central Government was under ERS?

6 A No

7 MR. SUSHON:

8 Objection to the form. Go ahead.

9 DEPONENT:

10 No because you had, for example, JRS and, administers  
11 the, the judicial...

12 MR. STEWART:

13 Q Right.

14 A ...portion.

15 Q And the teachers?

16 A And the teachers also had their ERS.

17 Q Okay. Putting those to one side, was there any  
18 other part of the Central Government you can think of that  
19 did not participate in the ERS?

20 A At this moment I cannot come, I can't think of,  
21 I don't...

22 Q Do you know how money flowed to and through the  
23 ERS before June of 2017?

24 A The mechanics? No.

25 Q Okay.

1 sitting.

2 DEPONENT:

3 I'm sorry, could you repeat the question?

4 MR. STEWART:

5 Q Have you heard of something called pay-as-you-  
6 go?

7 A Yes.

8 Q What is...

9 A The concept, I've heard of the concept.

10 Q Okay. What is the concept pay-as-you-go?

11 A Basically it is a system that you receive  
12 inflows and those same inflows that you receive you use  
13 them to make the actual payments, they don't go into  
14 corpus per se. That's why it's called pay-as-you-go...

15 Q Mhm.

16 A ...you know, as it comes in you pay and that's  
17 the usual activity.

18 Q Okay. Do you understand the, the, even if we  
19 asked about a question, do you understand that there are  
20 pension systems that are run on a purely actuarial basis?

21 A I don't understand the question, what do you  
22 mean by that.

23 MR. SUSHON:

24 Objection to the form.

25

1 MR. STEWART:

2 Q Okay. What, what is the alternative to a pay-  
3 as-you-go system?

4 A I think there, there are multiple alternatives,  
5 depends on, on you. You could have, I'm not an expert in  
6 pension matters but my understanding, you can have a, the  
7 typical funded pension program or you have corpus and  
8 inflows going to that corpus and those inflows are  
9 invested and, and the corpus and the trust usually it's in  
10 a trust, trust fund has specific outflows into it and  
11 that's one side, one typical thing. I believe there are  
12 also hybrid programs but I wouldn't venture, on applying  
13 on it, I'm not an expert.

14 Q Do you know if ERS was ever a fully funded  
15 program?

16 A I would refer you to the financial statements  
17 and, and ERS it self to find out about that.

18 Q Okay. Now, ERS had the services up on actuary?

19 A I believe so.

20 MR. SUSHON:

21 Geoff, this is beyond the scope.

22 MR. STEWART:

23 This is a foundational question.

24 Q And the actuary was Milliman?

25 A At least the recent interactions except in



1 government has been with, Milliman, I don't know how far  
2 back.

3 Q Do you ever yourself ever had dealings with  
4 Milliman?

5 A Yes.

6 Q Okay. And what was the, in a very general  
7 level, what was the nature of your dealings with Milliman?

8 MR. SUSHON:

9 Objection, beyond the scope. You can answer.

10 DEPONENT:

11 There might be deliberate issues there but that's  
12 subject to...

13 MR. STEWART:

14 Q If it's privileged don't tell me, okay? If you  
15 want to confirm with your counsel that's also fine. Well,  
16 let me just ask this, did you confirm with Milliman in  
17 connection with the preparation of either Joint Resolution  
18 188 or ACT 106?

19 MR. SUSHON:

20 You can answer that yes or no, Mohammad.

21 DEPONENT:

22 Yes.

23 MR. STEWART:

24 Q Thank you. Okay. So going back to the pay-as-  
25 you-go, system, is it your understanding that pay-as-you-

1 consulting actuaries if measures are not taken to  
2 significantly increase contributions the system will  
3 become insolvent by fiscal year 2018 depending on the  
4 timing of receipt of contributions in the system's ability  
5 to dispose of a liquid asset." Do you see what I just read  
6 to you?

7 A Yes.

8 Q Was that consistent with your understanding of  
9 the state of the ERS back in June 2016?

10 MR. SUSHON:

11 Objection, beyond the scope.

12 DEPONENT:

13 I never looked at the document on the 16<sup>th</sup>, I wasn't  
14 in government.

15 MR. STEWART:

16 Q So when you did become involved with AAFAF did  
17 you have an understanding whether or not ERS was at that  
18 time insolvent?

19 A Our understanding and concern was that ERS was  
20 that the ERS was running out of liquidity to meet it's  
21 pension obligations sometime in early fiscal '17-'18.

22 Q Okay. Just for the record, the fiscal year  
23 begins July 1 and ends on June 30<sup>th</sup>, correct?

24 A July 1, yes.

25 Q Okay. And we are right now in fiscal year 2019?

1 A This would be '18-'19, 18 dash 19, yes.

2 Q Okay. And July 1, what fiscal year begins?

3 A In, '19-'20.

4 Q Okay. That would run all the way to then June  
5 2020?

6 A June 30, 2020. That's correct.

7 Q Okay. If we go to stub of Page number 9.

8 A It's 9...

9 Q 9, well the number at the bottom, nine. In the  
10 third paragraph it begins with the phrase that the system  
11 becomes insolvent. I'll read, well, why won't you read it  
12 to yourself.

13 A I'm sorry?

14 Q Just, I'll wait, I was going to make your read  
15 it to yourself and it'd be easier if I just read it into  
16 the record. It says here: "If the system becomes insolvent  
17 it would be operating solely on a "pay-as-you-go" that was  
18 in quotes, basis which means that the system would be  
19 unable to pay benefits that exceed the actual employer and  
20 member contributions received and there is a parenthesis  
21 (net of administrative and other expenses), close  
22 parenthesis unless the Commonwealth and other  
23 participating employers provide the funding required to  
24 meet the, "pay-as-you-go" required benefits." Do you see  
25 the language that I just read into the record?

1 A Yes.

2 Q Was that your understanding of what would  
3 happen if the ERS became insolvent?

4 MR. SUSHON:

5 Objection, his understanding as of when?

6 MR. STEWART:

7 As the time he joined AAFAF.

8 DEPONENT:

9 As I mentioned earlier in, in my testimony our  
10 understanding or my understanding and the understanding of  
11 the people who worked on pension is that the ERS system  
12 would be running out of liquidity to meet it's pension  
13 obligations sometime early in the fiscal year '17-'18.

14 MR. STEWART:

15 Q Okay. Thank you. And then actually let's get  
16 this to... Then there's another document, isn't it?

17 MS. PÉREZ:

18 Mmhm.

19 MR. STEWART:

20 The we'll give him three of them. I'm going to  
21 remove the exhibit cover.

22 MS. PÉREZ:

23 What exhibit cover?

24 MR. STEWART:

25 Now, I can't remove this off the cover. So what's the

1       been asked by the Board when it asked the Commonwealth to  
2       provide a Revised Baseline forecast to reflect Pay-Go  
3       funding for pension benefits?

4       MR. SUSHON:

5             Objection...

6       MS. DALE:

7             Objection to the form.

8       MR. SUSHON:

9             ..and I just want to clarify you're just asking about  
10       the actual Fiscal Plan...

11       MR. STEWART:

12             That's right.

13       MR. SUSHON:

14             ...that's certified?

15       MR. SUSHON:

16             Okay.

17       MR. STEWART:

18             Yeah.

19       MR. SUSHON:

20             You can answer that, Mohammad.

21       DEPONENT:

22             Yes.

23       MR. STEWART:

24             Q       Okay. And when did you begin, let me back up a  
25       little bit, what was done to incorporate such a forecast

1 into the Fiscal Plan?

2 A Basically we estimated what was the, the  
3 pension payment obligations and that was incorporated into  
4 the, the Fiscal Plan outflows and obviously the ones that  
5 pertained to the government depending on, on each, there  
6 were multiple Fiscal Plans so which one are you make, are  
7 you referring to? Are you referring to the...

8 Q Just the first one you worked on.

9 A Well, we worked on multiple within, there were,  
10 the Fiscal Plan for the government versus Fiscal Plans for  
11 PRASA for plans for...

12 Q For the government...

13 A ...EVD fiscal...

14 Q ...for the government.

15 MR. SUSHON:

16 So, for the Commonwealth.

17 MR. STEWART:

18 Q The Commonwealth, yes.

19 A Okay, you're right. Well, in the Commonwealth  
20 Fiscal Plan then that reflected the, the estimate of what  
21 would be payment to pensioners...

22 Q Mhm.

23 A ...for entities that were within or within that  
24 Fiscal Plan and that was done to, to reflect that Pay-Go  
25 funding and the segregation of the current employee

1 contributions from, I would say probably from that get go  
2 the administration was committed to protect the, the  
3 contribution of the employees and setting up a 401 like,  
4 defined contribution program, so that's what got  
5 incorporated.

6 Q Do you remember when you did that?

7 A When I did what?

8 Q When you, what you just described how Pay-Go,  
9 Pay-Go funding was incorporated into the Fiscal Plan and  
10 my question was do you remember when that was.

11 A I'm, I'm not sure what you mean.

12 Q Well, you joined AAFAF in January 2017?

13 A Yes.

14 Q Okay. And when you joined AAFAF in January 2017  
15 did you begin working on the Fiscal Plan?

16 A A, I mean, a team of people was working on the  
17 Fiscal Plan, yes.

18 Q Right. You and people who you've worked with?

19 A Yes.

20 Q And did you and your team in January 2017 begin  
21 working on a Fiscal Plan that incorporated a Revised  
22 Baseline forecast to reflect Pay-Go funding for pension  
23 benefits?

24 A The Fiscal Plan that was submitted to the  
25 Fiscal Oversight Board tried to comply with the

1 people responsible for coming up with the nuts and bolts  
2 of Pay-Go in the following months?

3 MR. SUSHON:

4 Object to the form.

5 DEPONENT:

6 I believe that I, that there was a team in place  
7 that, that worked on it and yes, I was involved in that,  
8 in that effort.

9 MR. STEWART:

10 Q Okay. And you mentioned as well that the Board  
11 wanted to cut on pension benefits?

12 A Yes, it continued to want the cut and we  
13 continued to oppose the cut.

14 Q Does the Fiscal Plan they certified in fact say  
15 there would be a ten percent cut in benefits?

16 A Yes.

17 Q To your knowledge...

18 A I'm...

19 Q ...go ahead.

20 A ...I'm referring obviously to the March...

21 Q correct.

22 A ...Fiscal Plan because it's been like five or  
23 six different certified plans, so...

24 Q Does the...

25 A ...I'm assuming you're asking about that one,



1 right?

2 Q I did but I'll ask whether the pension plan in,  
3 the Fiscal Plan enforced today also calls for a ten  
4 percent cut in pension benefits.

5 A You're right, yes.

6 Q Okay. Sorry. Just to be clear, though, that's  
7 not an across the Board cut, correct?

8 A I believe it's, I'm, I'm not actually sure  
9 because they have this weird way of kind of like...

10 Q Don't, don't speculate. If you don't know just  
11 tell me you don't know.

12 A I don't know but there's a document that I  
13 referred you...

14 Q Yes.

15 A ...on the...

16 Q Yeah.

17 A ...Fiscal Oversight Board on how they interpret  
18 the cuts, so I refer you to that one.

19 Q Okay. So let's pull out the February 28 Fiscal  
20 Plan which is Exhibit 6.

21 MS. PÉREZ:

22 This is from the Board's website.

23 MR. STEWART:

24 Q Okay. This is from the Board's website annual  
25 report. Mohammad the reporter's had place before you the

1 around to different pages but I'd like to start at, let's,  
2 on the column slide do you call it by slide or page, what  
3 is the proper way to describe this?

4 A Either way, which one do you like?

5 Q I don't like either, it's up to you, you're the  
6 witness, you tell me what you like.

7 A It's a PowerPoint so let's go with slides.

8 Q Slides, let's go to slide, slide 62.

9 A And I just, for the record, I've never seen so  
10 many PowerPoints in my life until I got to the government.

11 Q Yeah, I think it's taking over the world.

12 A Which one, which one?

13 Q Sixty-two.

14 A Six, six-two?

15 Q Six-two, please. Do you see under specific  
16 initiatives, there's...

17 A Specific initiatives, yes.

18 Q ...the first bullet point says which, pardon  
19 me, "Switch to pay-as-to-go model to cover remaining  
20 defined remaining defined benefit obligations."

21 A Yes.

22 Q Okay. And so in the February 28 Fiscal Plan  
23 that was submitted to the Board this was an initiative the  
24 Commonwealth had decided to undertake, is that fair to  
25 say?

1           A       Yes.

2           Q       Okay. Was there anything particular in this  
3       pay-as-you-go model at that point in time that you  
4       remember?

5           A       At that point in time I think it was more,  
6       still in the conceptual level of, of the process.

7           Q       What thought had been given about how the pay-  
8       as-you-go model was going to be funded?

9       MR. SUSHON:

10           I'm going to object, I think that that has the  
11       potential to get into a deliberative process, privileged,  
12       so Mohammad, you should carve out of your answer anything  
13       that was under consideration but not then finally decided  
14       in answering Mr. Stewart's question. Subject to that you  
15       can answer.

16       DEPONENT:

17           Could you rephrase the, your question?

18       MR. STEWART:

19           Q       Sure.

20           A       Just to make sure that I...

21           Q       Okay. As of the date of this report...

22           A       Yes...

23           Q       ...February 28<sup>th</sup>, 2017 what thought had been  
24       given to how the pay-as-you-go model was going to be  
25       funded?

1 MR. SUSHON:

2 And I have the same objection.

3 DEPONENT:

4 At that time we used to, we were still  
5 deliberating...

6 MR. STEWART:

7 Q Okay.

8 A ..the specifics.

9 Q Fair to say there were different approaches  
10 being considered but none decided upon yet?

11 MR. SUSHON:

12 Object to the form.

13 DEPONENT:

14 I think it was decided it was going to be a pay-as-  
15 you-go...

16 MR. STEWART:

17 Q Mhm.

18 A ...because the corpus was already empty and we,  
19 the government was facing fiscal challenges that wouldn't  
20 have allowed it to bail out, the system.

21 Q Okay. Right. I'd like to, I have a question  
22 raised by, it's on slide 92. It says at the top: "The  
23 scope of this liquidity plan is the Treasury Single  
24 Account, TSA, which channels approximately two thirds of  
25 the government's cash flow."

1           A     A Fiscal Cliff is a point in time where, I  
2     guess, there would be a drop in, in the amount of cash  
3     necessary to comply with an obligation.

4           Q     Okay.

5           A     That's in general terms.

6           Q     The first bullet of this, right next to that  
7     says: "Pension asset depletion assumes ERS and TRS run out  
8     of liquid assets and are unable to transfer funds to the  
9     TSA beginning January 2018 and April 2018 respectively.

10          A     Yes.

11          Q     Was the assumption you worked with in preparing  
12     the Fiscal Plan?

13          A     Again at that, at that, and this Fiscal Plan,  
14     yes, it was the assumption.

15          Q     Did the assumption later change?

16          A     I don't think so because the procedure plans  
17     that were certified were beyond the point of, of  
18     depletion, so it was no assumption, they were just  
19     depleted.

20          Q     So they were beyond the point of completion?

21          A     That's my, of the liquid assets, yes.

22          Q     When did the liquid assets become depleted?

23          A     I couldn't... that's a question that the ERS  
24     can tell you specifically when these funds were  
25     depleted...

1 Q Right.

2 A ...but what I meant to say, so that we can be  
3 clear, is that the posterior Fiscal Plans were already  
4 beyond those points so that's why the assumption probably  
5 has changed.

6 Q There came a time yet they're not, when here  
7 were asked, was directed to liquidated assets and transfer  
8 of the proceeds to Hacienda, correct?

9 A I believe that the Joint Resolution 188 and Act  
10 106 speak for themselves.

11 Q Okay. And that was done? ERS did indeed  
12 liquidate it's assets, transferred the money to Hacienda?

13 A No.

14 Q It did not.

15 A It, I believe transferred the hundred,  
16 approximately the one hundred million four hundred or  
17 something.

18 Q What, okay, what happened to the rest?

19 A They are at ERS?

20 Q To this day?

21 A That's my understanding, ERS can confirm that,  
22 my understanding is that, they are there.

23 Q Do you know why they're ERS to this day?

24 MR. SUSHON:

25 Objection to the extent that that, answering that

1 question would require you to divulge attorney-client  
2 privilege, communications or any deliberative process.  
3 Privilege communications you shouldn't answer. Subject to  
4 that you may answer the question.

5 DEPONENT:

6 I cannot answer that question.

7 MR. STEWART:

8 Q Okay. Let's go to slide 113.

9 A One, one three?

10 Q One, one three. This slide is entitled  
11 "Pensions Implementation Timeline?"

12 A Yes.

13 Q Can you tell me what this slide is intended to  
14 show?

15 A This was a requirement and that the Fiscal  
16 Oversight Board required, required from the government to,  
17 to not only on, on the concepts present what, what would  
18 be the blueprint but rather tried to provide an estimate  
19 of what the timing would be to, on these issues and  
20 specific steps that would need to, to be addressed and  
21 that's what this slide is.

22 Q And when, and not only the steps to be  
23 addressed but then they would be addressed?

24 A Yes, the targeted timeline.

25 Q Okay. And who, who was it that came up with

1 A ...as we all know.

2 Q Mmhm. Okay. So that, we go to slide 132. The  
3 slide's entitled Detailed TSA Cash Flows Before Cliffs  
4 Measures and Debt Service.

5 A Yes.

6 Q And there's a line that's numbered, row 17,  
7 it's "Pension Benefits."

8 A Yes.

9 Q Do you know where the, and this projects what  
10 benefits are expected to be starting with July 2016 and  
11 ending at the end of fiscal year 2018?

12 A Yes.

13 Q Do you know where this information came from?

14 A This would be an estimate based on the best  
15 available data at that time. We need to keep in mind that  
16 when the current administration took office on January  
17 2<sup>nd</sup>, 2017...

18 Q Mmhm.

19 A ...we got the cash balance of the government,  
20 overall it was two hundred some million dollars and we  
21 were facing a payroll expense that was not, we didn't have  
22 the funding for it and we didn't have, there was the  
23 pension cliff that we estimated was going to be hitting  
24 and there was no reporting whatsoever on cash availability  
25 for the government so a lot of what we handed was no other



1 financial statements so when we came in, there was little  
2 visibility to the finances of the government so a lot of  
3 the information that was gathered was based on movements  
4 of cash, on a cash basis and trying to reconstruct from  
5 that movement of cash to the best of our ability what we  
6 estimated was going to be so that came probably from some  
7 type of estimate, best estimate based on cash outflows and  
8 cash inflows, obviously from then on then, as we put in,  
9 as AAFAF developed the systems and the monitoring of the  
10 cash flow obviously more robust data, obviously, became  
11 available but at that point that, probably it is an  
12 estimate based on, it's the best guess estimate of, of  
13 what the, based on the existing cash inflows and outflows  
14 that were available at that time.

15 Q Let's go to the next page, to row number 3...

16 A Okay.

17 Q ...it's a fiscal cliff called ERS Asset  
18 Depletion.

19 A Let me see. At page 133?

20 Q 133.

21 A Yeah, I'm sorry, what is it?

22 Q row 3 to the far right.

23 A But...

24 MR. SUSHON:

25 The second row of three...

1 Q Okay. Where you involved in the preparation of  
2 Joint Resolution 188?

3 A The initial drafting? No. We were, AAFAF was  
4 once it was filed AAFAF made some comments.

5 Q When you say "filed" you mean introduced...

6 A Yes, I'm sorry...

7 Q ...in the Legislature?

8 A ...yeah.

9 Q That's fine. I'm, is this a document or that  
10 you are familiar with?

11 A Yes.

12 Q Let me ask you some questions about it.

13 A Yes, of course.

14 Q I'm now on Page 2 which is section 1.

15 A Page 2, section 1, yes.

16 Q And section 1 talks about, section 1, first  
17 sentence...

18 A Mhm.

19 Q ...it says "The amount of \$390,480,000.00 is  
20 allocated under the custody of the Office of Management  
21 and Budget for payment of pensioners in the Central  
22 Government, and Judiciary Retirement Systems, the Teachers  
23 Retirement System arising from the sale of assets or  
24 available funds from the Central Government and Judiciary  
25 Retirement System and the Teachers Retirement System.' Did

1       you see that, what I read in here?

2           A       Yeah, let me just read it in Spanish for a  
3       second.

4           Q       Okay.

5           A       Yes.

6           Q       Okay? And do you know why this amount was  
7       allocated as supposed to some other amount?

8           A       That was the amount that was necessary to be  
9       able to certify the budget.

10          Q       Okay. Necessary under the Fiscal Plan that had  
11       been approved by the Board?

12       MR. SUSHON:

13               Object to the form.

14       DEPONENT:

15               And necessary as to... yes, necessary as to the, to,  
16       to have a compliant budget to the Fiscal Plan.

17       MR. STEWART:

18          Q       Do the number, did that number come from the  
19       oversight Board or from some other source?

20          A       That came from the Oversight Board, the process  
21       of certification of the budget...

22          Q       Mmhm.

23          A       ...they indicated that number.

24          Q       Okay. Let's go to the next page into Section 2.  
25       That says "The Central Government and Judiciary Retirement

1       System and the Teachers Retirement System are ordered to  
2       sell their assets and to transfer the net cash proceeds in  
3       addition to any available funds into the Treasury  
4       Secretary's account." Do you see that?

5           A       Yes, let me read it in Spanish just to...

6           Q       Sure.

7           A       Yes.

8           Q       Is the translation consistent so far as you can  
9       tell?

10          A       It's actually pretty good.

11          Q       Okay. Where they ordered and your understanding  
12       of this section is...

13          A       Mmhm.

14          Q       ...did Section 2 order these retirement systems  
15       to sell all of their assets per less than all of their  
16       assets?

17       MR. SUSHON:

18               Object to the form.

19       DEPONENT:

20               I believe that that calls for, the document speaks  
21       for itself. The orderly in sense of the words, the sense  
22       of the words speaks for themselves.

23       MR. STEWART:

24          Q       What's your understanding?

25          A       Are you asking me for legal interpretation?

1 Q I'm asking you for your personal understanding.

2 A It's, it orders them to sell their assets and  
3 to transfer any proceeds.

4 Q Okay.

5 A That's my understanding...

6 Q Do you know...

7 A ...the plain, the plain language speaks for  
8 itself.

9 Q Do you know whether they did sell al of their  
10 assets?

11 A That's a question that you should address to  
12 them, my understanding is that no, that you should check  
13 and confirm with them.

14 Q Mhm. It says here "Into the Treasury  
15 Secretary's account", do you know if that's reference too?

16 A It must, it's not specific, it goes to a  
17 specific, to, to an account belonging to the Secretary of  
18 the Treasury. You would have to ask Treasury to identify  
19 which account if....

20 Q There is not one account called the Treasury  
21 Secretary's account to your knowledge?

22 A To my knowledge no, that's a question that  
23 should be directed to...

24 Q Okay. So let's go onto Section 4 then.

25 A Yes.

1           Q     As a few subparagraphs, the first of these  
2     says: "The Genaral Fund through the pay-as-you-go system  
3     shall assume any payments for the three Retirement Systems  
4     cannot make." Okay. At the time this was written what was  
5     the understanding if any about what payments the  
6     Retirement Systems were not going to be able to make?

7     MR. SUSHON:

8           Object to the form. Understanding by whom?

9     MR. STEWART:

10          Q     By his own understanding, it's all I can ask  
11     him.

12     MR. SUSHON:

13          Okay.

14     DEPONENT:

15          The, the different systems, ERS in particular had a  
16     statutory obligation to make pension payments and what  
17     this refers to is to the extent that ERS is unable to pay  
18     those statutory obligation pension payments, and the  
19     Genaral Fund would assume such payments.

20          Q     Would do the Genaral Fund do so by giving money  
21     to the Retirement Systems or by doing to it...

22          A     No.

23          Q     ...by some other sources?

24     MR. SUSHON:

25          Object to the form.

1 Q Do you know what the General Fund is?

2 A You need to check with Hacienda but my  
3 understanding is the General Fund is basically the main  
4 budget of the operating budget, operating fund of, of the  
5 government. I'm not, I'm not an expert on government  
6 accounting terminology...

7 Q Mhm.

8 A ...but I believe that that's the fund from  
9 where the actual budgeting goes from the main government  
10 but again, Hacienda probably can give you a, to add more  
11 color to that.

12 Q Okay. The next paragraph...

13 A Yes.

14 Q ...says: "Employer contributions by the Central  
15 Government, Public Corporations and Municipalities to the  
16 Puerto Rico Government Employee Retirement System and the  
17 Teachers Retirement System shall be eliminated given the  
18 burden of the respective payments of these systems  
19 pensioners places on the General Fund." I believe we've  
20 talked about contributions before. Do you understand the  
21 phrase employer contributions here to be referring to the  
22 same thing you testified about earlier, about  
23 contributions made to the ERS?

24 MR. SUSHON:

25 Object to the form. I also object on the grounds

1       that it calls for a legal conclusion from a lawyer. You  
2       can answer with your general understanding if you have  
3       one, Mohammad.

4       DEPONENT:

5             Again, I think we, the employer contribution probably  
6       is defined in the corresponding acts probably or for each  
7       one of the systems that would be made...

8       MR. STEWART:

9             Q       Okay. So should go to the...

10            A       ...that's my understanding.

11            Q       ...go to the original obligation to see what  
12       that means.

13            A       Yes because it, this eliminates a, I guess,  
14       purports to eliminate a, legal obligations or I would have  
15       preferred to award that original obligation was enacted.

16            Q       It says here and then it goes on to say: "Given  
17       the burden of that respective payments the these systems'  
18       pensioners places on the General Fund." Do you see what I  
19       just read here?

20            A       Yes.

21            Q       Why would it be that the burden that the  
22       respective payments to those systems' pensioners was  
23       placed on the General Fund?

24       MR. SUSHON:

25            Object to the form. Also Mohammad, to the extent



1       that answering that question would require you to testify  
2       that deliberative process, privileged communications, you  
3       shouldn't answer if you have any independent answer to  
4       that question then you can give it.

5       DEPONENT:

6             I'm going to ask you to rephrase the question because  
7       I didn't understanding the question.

8       MR. STEWART:

9             Q       Sure. Do you know, do you know why it says here  
10       that those contributions placed a burden on the General  
11       Fund ?

12       MR. SUSHON:

13             Same objection.

14       DEPONENT:

15             Because, again, the, the systems were created as a  
16       trust of, into which money had to come in and we had also  
17       the statutory obligations to make those payments to that's  
18       regrettably by the time this administration took control  
19       those funds were pretty much depleted and they were not  
20       going to be able to meet whether statutory requirements  
21       and, and I would probably say that the creation of, for  
22       the government part of the issue is if those payments were  
23       not made it would require the General Fund to have to give  
24       them food stamps, health, free healthcare, free housing  
25       and so on and so forth so in that sense that would have,

1       burden the General Fund because the General Fund is  
2       basically were a lot of those monies are budgeted.

3       MR. STEWART:

4             Q       Can we backup a little? The contributions from  
5       municipalities to ERS did not come from the General Fund,  
6       did they?

7             A       No.

8       MR. SUSHON:

9             Object to the theform.

10       MR. STEWART:

11            Q       And in the contributions by public corporations  
12       to the ERS did not come from the General Fund, did they?

13       MR. SUSHON:

14            Same objection.

15       DEPONENT:

16            Some of them, yes.

17       MR. STEWART:

18            Q       How much were percentage?

19            A       I don't know, you would need to look at the, at  
20       each budget for each year to identify but I don't think,  
21       I think you, you're looking at it from the wrong side  
22       because the issue is if the municipalities would not pay,  
23       if all, let me say if pension as the municipalities do not  
24       receive payments whether, regardless of where the source  
25       of the payment comes from the fact is that person

1       presumably will need to continue to eat, receive public,  
2       and receive healthcare and depending on the specific  
3       things they might qualify for other governmental help, so  
4       when that pensioner who used to work for a municipality  
5       and when he retired would stop receiving that pension  
6       payment the end result would be that that pensioner  
7       probably would seek governmental help in the forum of food  
8       stamps, healthcare, probably free housing and a multitude  
9       of other social programs that we have and those programs  
10      are, are paid for by the, by the General Fund so to the  
11      extent that, for example, Mohammad was a pensioner of the  
12      municipality of Jayuya and for some reason Mohammad's  
13      pension check didn't come through and Mohammad fell below  
14      the threshold levels to qualify for public assistance  
15      Mohammad probably would go ask for food stamps and go ask  
16      for, to be on the healthcare program and so on and so  
17      forth and that charge, the expenses of giving Mohammad  
18      food stamps and the expenses of giving Mohammad healthcare  
19      and all the myriad of other programs that is paid for by  
20      the General Fund, not the municipality...

21           Q       Something...

22           A       ...so that, and I'm just using myself as a  
23      simple example.

24           Q       So if the municipality did continue to make  
25      contributions it would relieve the burden of the General

1 Fund, correct?

2 MR. SUSHON:

3 Object to the form.

4 DEPONENT:

5 The obligation to, to that, the pensioner's, the  
6 obligation to pay the pensioner is actually of the trust.

7 MR. STEWART:

8 Q Mmhm. So if the municipality gave money to the  
9 trust so it can pay the pensioners that would take some of  
10 the load off of the General Fund, wouldn't it?

11 A The issue that the corpus of the system is,  
12 doesn't have liquidity so there wasn't sufficient money to  
13 do that.

14 Q But, okay, but the municipalities did put in  
15 money it could only help, correct?

16 MR. SUSHON:

17 Object to the form. Asked and answered. You can go  
18 ahead and tell him again.

19 DEPONENT:

20 Yes, I don't feel comfortable speculating about  
21 hypotheticals...

22 MR. STEWART:

23 Q I see.

24 A ...because I don't know when the inflows are  
25 versus the outflows.

1           Q     What projections did you see of the inflows  
2     versus the outflows of these burdens on the General Fund  
3     that would come from food stamps and other services if  
4     contributions to ERS stopped?

5     MR. SUSHON:

6           I object to the extent that that was part of the  
7     deliberative process, you shouldn't testify about that. If  
8     there are any projections that you saw independent of that  
9     deliberative process you can testify about those...

10    DEPONENT:

11           No, there...

12    MR. SUSHON:

13           ...so anything would be covered by the leverage.

14    DEPONENT:

15           It's privileged, yes.

16    MR. STEWART:

17           Q     You have, just for the record, you just said  
18     you can't answer my question because it's privileged?

19           A     Yes.

20           Q     Okay.

21           A     I mean, do, your question so I can, to make  
22     sure that I'm, is what studies or the projections we  
23     looked at...

24           Q     Mhm.

25           A     ...in the process of formulating?

1           Q     Well, it is this particular thing you told me  
2     about...

3           A     Yeah.

4           Q     ...which is that cities stopped giving money to  
5     ERS, ERS it would cause more people to seek Central  
6     Government benefits.

7           A     That's the working assumption, yes.

8           Q     Okay. And the reverse is if cities kept making  
9     contributions to ERS how would it increase the burden on  
10    the General Fund, same answer?

11          A     And my answer to the second one was that we  
12    would need to see the specific inflows of, and outflows on  
13    the specific municipalities to be able to give an answer.

14          Q     Okay.

15          A     The general presumption was that the inflows  
16    were less than the outflows so by, by nature...

17          Q     Mmhm.

18          A     ...that's what, that's...

19          Q     Fair to say.

20          A     ...that's why we have a problem, otherwise if  
21    the inflows were higher then we wouldn't be sitting here  
22    probably.

23          Q     Fair to say it's better to have some inflows  
24    than no inflows?

25

1 MR. SUSHON:

2 Object to the form.

3 DEPONENT:

4 It depends because at the end of the day the, the  
5 corpus of ERS was already depleted so it's kind of like  
6 the stage 5 cancer when we came in...

7 MR. STEWART:

8 Q Mhm.

9 A ...and notwithstanding all of funds for the  
10 pensions at the point that we came in, you know, the  
11 liquid assets were pretty much depleted.

12 Q But my question is all a little but different,  
13 it's more simple, isn't it better to have some inflows to  
14 ERS rather than no inflows into ERS?

15 MR. SUSHON:

16 Object to the form. It's an incomplete hypothetical.  
17 You can answer.

18 DEPONENT:

19 The answer to your question it depends because if  
20 you, if you take away the burden of 49 billion dollar  
21 unfunded pension liability then that's, that's much more  
22 beneficial than any inflow that you can bring into the  
23 agency, so...

24 MR. STEWART:

25 Q So is it fair to say that by removing ERS'

1 obligation to pay pensions there was no more need for  
2 employer contributions?

3 MR. SUSHON:

4 Object to the form.

5 DEPONENT:

6 I wouldn't, that's not what I was mentioning, I mean,  
7 ERS has a main statutory obligation which is to provide  
8 the pension payments the trust has beneficiaries and it  
9 has to pay those beneficiaries to the extent that we, the  
10 government helped ERS by, to comply with the statutory  
11 objective which is the payment of social, of pension  
12 payments to avoid the social upheaval that would result,  
13 the damage to society and the fact that we alleviated 49  
14 billion dollars of, of the balance sheet in itself that's  
15 not possible.

16 MR. STEWART:

17 Q Mhm. So you're saying ERS no longer had the  
18 obligation to make those payments?

19 A To the, if you see here the obligation is not  
20 that no longer have it, it says that it has to pay  
21 inasmuch as it can...

22 Q Mhm.

23 A ...and once it, it's, the corpus cannot make  
24 any additional payments then the General Fund would have  
25 to step in...



1 Q Mmhm.

2 A ...so, I mean, that's, that's I think it was on  
3 number 2 that you read to me, see, "The three retirement  
4 systems shall continue to meet their obligations to the  
5 beneficiaries and pensioners by contributing available  
6 funds on funds arising from sale of their assets to the  
7 General Fund" and if you combine that with number 1, 'The  
8 General Fund through the pay-as-you-go system shall assume  
9 any payments that the three retirement systems cannot  
10 make."

11 Q Mmhm. So this was taking that obligation, paid  
12 pensioners, and putting it on the General Fund?

13 A It, it...

14 MR. SUSHON:

15 Object to the form.

16 DEPONENT:

17 ...here it doesn't put the obligation on the General  
18 Fund, it just says that General Fund shall assume the  
19 payment because remember, subsequent to this there was ACT  
20 106, right? So...

21 MR. STEWART:

22 Q Good, and we will get to that, okay? Next  
23 paragraph on...

24 A Yes.

25 Q ...page, it's subparagraph number 4...

1 A Yes.

2 Q ...it says: "The obligation to pay the  
3 Additional Uniform Contribution shall be eliminated."

4 A Yes.

5 Q Do you know why that was done?

6 A No, I believe for the same reason as, that  
7 applies to number 3.

8 Q Okay. And five says: "AAFAF shall establish and  
9 implement all mechanisms necessary so that Central  
10 Government, the Municipalities and Public Corporations may  
11 contribute to financing the pay-as-you-go systems." Do you  
12 see that?

13 A Yes.

14 Q Was that something that you worked on at AAFAF?

15 A Yes.

16 Q And they used the word mechanisms or some other  
17 word to describe the scope of what, what you did pursuant  
18 to the subparagraph.

19 A We didn't use any specific word.

20 Q Okay. This should be next. Mohammad, the  
21 reporter has placed before you Exhibit 9, take a minute to  
22 look at it, my question's going to be whether you  
23 recognize this document.

24 A Yes.

25 Q Is this the document that you were involved in

1           Q     Do you know whether this memorandum understand  
2     ever became effective?

3           A     Yeah, I believe it in terms of operations it  
4     was as I told you when, when there's a division of labor  
5     each party assumes their areas of expertise and these  
6     describe those divisions of labors, I am not sure if they  
7     were effectively put in operations as they were here.

8           Q     Mmhm. Okay. Do you know if this...

9           A     That would...

10          Q     Go ahead, please.

11          A     ...what I would ask is if you probably need to  
12     ask ERS if they effectively put them in place...

13          Q     Mmhm.

14          A     ...and ask Hacienda if they put their place  
15     in...

16          Q     Mmhm.

17          A     ...as to AAFAF's obligations, yes, we did  
18     calculate the pay-as-you-go charge.

19          Q     To, to your knowledge is this document still in  
20     force?

21          A     No.

22          Q     Do you know when it was written?

23          A     I can't recall.

24          Q     Was it, let's pout it, how soon after Joint  
25     Resolution 188 was passed was this written if you have any

1 Q Okay.

2 A ..the, the joint resolutions because remember,  
3 you have a joint resolution on, on the General Fund for  
4 the main government so I'm not sure what that contains. If  
5 you can provide me with a copy of them I'll be able to...

6 Q Maybe at the break we'll see what we can find  
7 though, okay. Go to Page 3. It speaks about obligations of  
8 the parties.

9 A Yes.

10 Q Okay. And while you go through these so just I  
11 understand them. First is calculating Retirement Benefits,  
12 that's 2-A...

13 A Yes.

14 [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

19 MR. SUSHON:

20 Objection.

21 DEPONENT:

22 The, these, the actual operational system for how  
23 much a pensioner receives?

24 MR. STEWART:

25 Q Mhm.

1           A       ...resides with each one of the entities, so  
2       they, they probably are the ones who are calculating how  
3       much the end the pensioner receives.

4 Q By each entity you mean each plan...

5                    A       Yes.

6           Q       ...not each entity...

7           A       No, no, no.

8 Q ...that makes a contribution or employs people.

9                    A            No, no.

10 Q Okay.

11           A       The only one who knows what are the historical  
12       pension benefits that each pensioner should receive would  
13       be ERS for it's trust beneficiaries and TRS for it's trust  
14       beneficiaries and JRS for it's trust beneficiaries.

15

Row	Bar Length (approx. %)
1	5
2	100
3	100
4	100
5	100
6	100
7	100
8	100
9	100
10	100
11	100
12	100
13	100
14	100
15	35

20           A       Where are you reading, sir? I'm sorry.

21 Q At the very end of that same subparagraph.

22 MS. DALE:

23                      2-A.

24 MR. STEWART:

25           Q       ...2-A at the very end.

1 A Mmhm.

2 Q See the last two lines?

3 A Yes.

4 Q Do you know by the time this MOU was written  
5 who actually made the payment?

6 MR. SUSHON:

7 Object to the form.

8 DEPONENT:

9 I believe the payments were being made by the  
10 Secretary of the Treasury pursuant to...

11 MR. STEWART:

12 Q Okay.

13 A ...to the Joint Resolution 188 and other  
14 budgetary resolutions.

15 Q And let me ask what I know sound like a stupid  
16 question.

17 A There are no stupid questions.

18 Q Just wait to hear mine.

19 A I'll let you know.

20 Q The, these checks, are they on a bank or are  
21 they just say Hacienda of Puerto Rico only, if you know?

22 MR. SUSHON:

23 Objection.

24 DEPONENT:

25 I don't know the details so I don't think there are

1 checks but you should check with Hacienda, I think they're  
2 like deposits.

3 MR. STEWART:

4 Q Like a wire transfer or something like that?

5           A     I believe, I, Hacienda will be able to give you  
6     that detail.

7 Q Okay. We'll ask. Thank you. Okay. The  
8 calculation of pay-as-you-go charge...

9 A Yes.

1 MR. SUSHON:

2 Object to the form.

3 DEPONENT:

4 Yes.

5 MR. STEWART:

6 Q It does, it still do so?

7 A Yes, I believe so.

8 Q Okay. Where in AAFAF is that function housed?

9 A Currently be in the financial advisory side,  
10 should be in the financial advisory side.

11 Q And do you know how they do it?

12 A Without going into privileged materials it's  
13 mainly by how much actually gets paid to pensioners we  
14 trace back who that pensioner retired from that is I think  
15 filed and computed, how do you call that, the employer and  
16 pursuant to ACT 106 and back then Joint Resolution 188  
17 that person would have to make the pay-as-you-go charge  
18 which mainly is the, the or principally is the, the amount  
19 that actually gets paid to the pensioners and in that  
20 sense it's different from what the employer used to  
21 contribute before which was a formula that was a  
22 percentage of total payroll.

23 Q Mhm. Is this process automated now in some  
24 kind of a model?

25 A You need to ask ERS how it's done because they



1 are the ones who, who report that thing.

2 Q Mmhm.

3           A       My understanding is that based on the actual  
4       payments every month ERS provides an actual invoice based,  
5       you know, we pay X or Y on your behalf...

6 Q Yeah.

7           A     ..and that gets submitted to, to...

8 [REDACTED]

\_\_\_\_\_

☐ [redacted]

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

[REDACTED] [REDACTED]

**[REDACTED]**

[REDACTED] [REDACTED]

\_\_\_\_\_

[REDACTED]

☐ \_\_\_\_\_



[REDACTED] [REDACTED]

**[REDACTED]**

[REDACTED]

1                    0           And from ERS?

2           A       Yes because they are the one, I mean, ERS, ERS  
3       has the ERS, JRS has the JRS but this one is pertaining to  
4       the ERS, yes.

5                    Q        Okay. Are those...

6           A       Remember, they have the Operational System,  
7       right and just, that Operational System is like, under ACT  
8       106 was to be history, privatized though, you know, it was  
9       going to be externalized.


10 Q Has it been privatized yet?

11           A     I believe there, I'm a little bit removed from  
12     that process now but I believe there's some RFP or RFQ  
13     process going on.

14 Q Are the invoices paper invoices or they handle  
15 some other way if you know?

16           A       You would need to check with ERS.

17



The chart consists of 17 horizontal rows. Each row begins with a small black square. Following this square is a gap of varying width. Then, a series of black bars of different lengths are plotted. Some bars start at the same point as the square, while others start further to the right. The bars end at various points, creating a complex, non-linear pattern. The overall effect is one of a sequence or a timeline, with the bars representing different durations or intervals.



1           A     ...your question, your question was not to that  
2     time, your question was if that's happening and that's  
3     what I told you, there are some privileged materials and  
4     deliberative process also.

5           Q     I see. So let me break it down so I can get  
6     what I'm allowed to get...

7           A     Yes, of course.

8           [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

15          MR. SUSHON:

16                By this you mean everything in...

17          MR. STEWART:

18                Yeah, that, that mechanism.

19          MR. SUSHON:

20                ...today...?

21          MR. STEWART:

22                Mmhm.

23          MR. SUSHON:

24                Okay. You can...

25

1 DEPONENT:

2 Actually I...

3 MR. SUSHON:

4 ...answer yes or no, Mohammad.

5 DEPONENT:

6 No because the joint resolution authorized the  
7 transfer of the 390 and as the liquidity of the government  
8 improved there was no need but you, what you need to, to  
9 keep in mind is, you know, and again, this is a draft so  
10 I have not seen the, the final thing but as ACT 108, I  
11 mean, 106 was instituted the legal basis for a lot of  
12 these things got stashed away, statutory established  
13 becomes inoperative.

14 MR. STEWART:

15 Q Okay. So to understand your testimony correctly  
16 that after the money was transferred to the Treasury  
17 Secretary's account under Joint Resolution 188 there was  
18 no requirement for ERS to transfer any further available  
19 funds to the Secretary of the Treasury.

20 MR. SUSHON:

21 Objection, mis-characterized his testimony, you can  
22 answer.

23 DEPONENT:

24 The only requirement to transfer was that of  
25 transferring a hundred and ninety million four hundred.

1 MR. STEWART:

2           Q     Okay. And so other than the hundred and ninety  
3     million four hundred no more...

4                    A            Approximately.

5 Q ...sure, other than the hundred ninety million  
6 four hundred thousand dollars no more ERS available funds  
7 were transferred to the Secretary?

8           A       To the best of my knowledge.

9

\_\_\_\_\_

\_\_\_\_\_

☐ \_\_\_\_\_

**[REDACTED] [REDACTED]**

☐ ☐ ☐

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\_\_\_\_\_

[REDACTED] [REDACTED]

**Figure 1**

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1. **Introduction**  
 2. **Background**  
 3. **Methodology**  
 4. **Results**  
 5. **Discussion**  
 6. **Conclusion**  
 7. **References**  
 8. **Appendix**  
 9. **Index**  
 10. **Index**

[illegible]

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4

Q Okay. So do I understand correctly the monthly payment of Retirement Benefits directly to the beneficiaries is made by the Secretary of the Treasury?

7

A That's what it says.

8

Q And is that what happened?

9

A You need to check with, with Hacienda but I believe that's what happens.

11

Q There's a reference to something called the Pay-Go appropriation. What is that?

12

13

A It's capitalized terms, so I don't see what...

14

Q Mmhm.

15

A I don't know what it is refers to, it has capitalized terms, so...

16

17

Q Okay.

18

A ...I don't know what it's defined.

19

MR. SUSHON:

20

I believe just to speed things along if you look at the, where as crossed at the top of Page 2 might be...

21

22

DEPONENT:

23

Ah, okay, thank you very much. Okay. Yes, that's, that, from this it is, it talks about the fiscal year 2018 budget and appropriations included within that budget for

24

25

1 MR. STEWART:

2 Ten. You want to take a short break?

3 MR. SUSHON:

4 I sure do. Mohammad, you want a break?

5 DEPONENT:

6 I'm fine.

7 MR. STEWART:

8 Q Okay. Mohammad, the report had placed before  
9 you, the document marked as Exhibit 10.

10 A Yes.

11 Q Exhibit 10 is a translation of Act 106. Can  
12 you take a look at it for a minute?

13 A Yes.

14 Q Here we are. Were you responsible for providing  
15 advise regarding the drafting of Act 106?

16 A Yes.

17 Q Okay. Who did you work with in providing that  
18 advise?

19 A The AAFAF team that worked on pensions at that  
20 time, our legal, outside legal counsel...

21 Q Mhm. For the record, who's your outside legal  
22 counsel?

23 A On this specific thing I think we had Ferdinand  
24 Ocasio Law Firm, a small boutique...

25 Q Mhm.



1 Q I see. Okay.

2 A ...that's, that's the reason for my comment.

3 Q Okay. So...

4 A But presumably around August 23<sup>rd</sup> or 24<sup>th</sup>, yeah.

5 Q Good, okay.

6 A I'm assuming this is the final version of  
7 the...

8 Q That's what I assume as well. Still on that  
9 same page it recites that the purpose of this law and now  
10 we're in the middle it says: "Established that the General  
11 Fund via the pay-as-you-go system will take over the  
12 payments that the Puerto Rican Government Employee  
13 Retirement System, Teachers Retirement System and  
14 Judiciary Retirement System are unable to make." Do you  
15 see that?

16 A Yes.

17 Q Okay. And why was it if you know, oh, by the  
18 way, did you see the language of this before the statute,  
19 before it was passed by the Legislature?

20 A Yes.

21 Q Okay. When did you begin working on it?

22 MR. SUSHON:

23 Object to the form.

24 DEPONENT:

25 Sometime probably in, I want to say maybe end of

1 April, start of May.

2 MR. STEWART:

3 Okay.

4 MR. SUSHON:

5 2017?

6 DEPONENT:

7 2017, I'm sorry, yes.

8 MR. STEWART:

9 Q Mmhm. Okay. And how much of your time was  
10 spent working on the legislation that became Law Number  
11 106?

12 A Are you asking of...

13 Q You.

14 A ...Mohammad's time?

15 Q Mohammad's time, I care about no one else's  
16 time.

17 A I thank you for being so, so appreciative of  
18 my, my time. I don't know, maybe five percent or ten  
19 percent. One of my staff attorneys, Carlos Yamil was in  
20 charge of like legal legislative affairs, so I just to  
21 interact more with him on, on the legislation but...

22 Q And do the legislation go through a number of  
23 drafts?

24 A Yes.

25 Q And you would get copies and comment on them

1 and send them back?

2 MR. SUSHON:

3 Object to the form.

4 DEPONENT:

5 I, I don't, there's also some deliberative process as  
6 to how...

7 MR. STEWART:

8 Q That's not privileged whether you got copies,  
9 comments and sent it back it's not...

10 A Yes, I say it, that answer yes.

11 Q Yeah. Okay. That's all I'm asking.

12 A No, no, no problem.

13 Q You know how many times you sent drafts back  
14 and forth?

15 A I don't recall.

16 Q More than five?

17 A Probably.

18 Q Did you appear before the Legislature to  
19 testify about the statute?

20 A No, the statute was enacted during a special  
21 session, there was no use.

22 Q Did you personally visit with any of the  
23 members of the Legislature to discuss the statute?

24 MR. SUSHON:

25 You can answer that yes or no.

1 DEPONENT:

2 Yes.

3 MR. STEWART:

4 Q How many visits did you have?

5 A I don't recall. Exactly but I can probably,  
6 maybe around four or five.

7 Q What were the names of the legislators you met  
8 with to discuss the statute?

9 A The, mostly the, Lourdes Ramos who heads the  
10 subcommittee on pensions of the house...

11 Q Mhm.

12 A ...and Senator Miguel Romero who heads the  
13 senate committee on, on pension related matters.

14 Q Okay. So let's go back to where we were.

15 A Yes.

16 Q It speaks about the payment the pensions  
17 systems are unable to make...

18 A Yes.

19 Q ...and was it your view at the time the pension  
20 systems were not able to make pension payments?

21 A They were facing liquidity issues, yes.

22 Q Were they able to make, pay any part of the  
23 pension payments to your knowledge?

24 A Remember that on July 1<sup>st</sup> they pre-funded 390  
25 million which was the, necessary to get the budget

1 certified and once that pre-funding was made...

2 Q Mhm.

3 A ...we did not go back to them.

4 Q Mhm. Okay. And that they, I think you told me  
5 the three ninety, one ninety point four came from the ERS?

6 A I believe one hundred and ninety, four hundred  
7 came from ERS.

8 Q And the rest came from the other systems?

9 A Mostly TRS if my memory doesn't fail.

10 Q Okay. And then the balance of the money at ERS  
11 stayed at ERS, correct?

12 A Yes.

13 Q In a still...

14 A You have, you have to confirm with ERS because  
15 I don't run their operation.

16 Q But to your knowledge.

17 A To the best of my knowledge, yes.

18 Q And, and it is still there?

19 A To the best of my knowledge but you, you should  
20 confirm with the ERS office.

21 Q Okay. So let's go, oh, by the way, let's go to  
22 2, Page 2...

23 A Page 2-O...

24 Q ..the number, okay, now we're doing numbered  
25 pages. First paragraph, the bottom of the paragraph...

1 MR. SUSHON:

2 ...that's Exhibit 10.

3 MR. STEWART:

4 Exhibit 10.

5 DEPONENT:

6 ...I'm going to give her back 11 so I don't get...

7 MR. STEWART:

8 Q You can put it over there.

9 A Okay.

10 Q Yeah. Back to Exhibit 10, Page 5.

11 A Page 5, yes.

12 Q Are you on Page 5?

13 A Yes I am.

14 Q Okay. Second paragraph, third sentence. It  
15 says: "On February 28, 2017 the Governor presented a  
16 complete all encompassing real Fiscal Plan which at the  
17 same time is sensitive to the needs of our people and the  
18 most vulnerable among us." Do you see that?

19 A Yes.

20 Q Your knowledge is that the Fiscal Plan that we  
21 looked at earlier today that's Exhibit Number 6.

22 MR. SUSHON:

23 I object, calls for speculation.

24 DEPONENT:

25 Based on your representation that you downloaded this

1 from the Oversight Board, website, yes.

2 MR. STEWART:

3 Q Okay. In other words, the real Fiscal Plan is  
4 referred to here as the February 28 Fiscal Plan.

5 A I guess, if that's what it says I guess.

6 Q Okay. Let's jump Exhibit 10 to Page 10. It's  
7 just a couple of statements here. I want to ask youi about  
8 it if you know.

9 A Mhm.

10 Q At the top of Page 10 it refers to the  
11 administration of Governor García Padilla...

12 A Mhm.

13 Q ...committing to make additional contributions  
14 to the establishment of Uniform Additional Contributions  
15 but failed to comply.

16 A Yes.

17 Q What is that referring to...

18 MR. SUSHON:

19 Object to...

20 MR. STEWART:

21 ...if you know.

22 MR. SUSHON:

23 Object to the form...

24 DEPONENT:

25 I would...

1 MR. SUSHON:

2 ...calls for speculation.

3 DEPONENT:

4 ...I would look at the legislative history or ask the  
5 Legislature...

6 MR. STEWART:

7 Q Mhm.

8 A ...what that was.

9 Q Okay. Do you, were you aware that the, they are  
10 not being compliant with the obligation to pay the UAC's?

11 A Not specific awareness but you know, an  
12 awareness.

13 Q Mhm. Okay. The next paragraph first sentence  
14 speaks about the passage of special laws, do you see that  
15 at the end of that first one?

16 A Yes.

17 Q Do you know what that's referring to?

18 MR. SUSHON:

19 Objection, calls for speculation.

20 DEPONENT:

21 Again, I would refer you to the legislative history  
22 of the legislation for that.

23 MR. STEWART:

24 Q Okay. So let's go look at the statute itself.

25 I'm going to ask you just about the mechanics of the



1 statute.

2 A Yes.

3 Q So let's go to Page 18.

4 A Yes.

5 Q Here we go. Okay. So whether's a couple of  
6 phrases in here I'm trying to understand. On Page 16 under  
7 the definitions that are something called an accumulated  
8 pension but let me just ask as a background...

9 A Okay.

10 Q After Act 106 was passed were you involved in  
11 setting up the mechanisms under which it would be  
12 administered?

13 A I'm not quite sure what the question is, I'm  
14 sorry.

15 Q After Act 106 was passed what involvement if  
16 any did you have in creating the procedures under which  
17 the provisions of the statute would be implemented?

18 A I was tangentially involved on the, the Pay-Go  
19 charge and the mechanism that pretty much survived from  
20 general Resolution 88 included.

21 Q Okay. So let me ask you about that as best I  
22 can.

23 A Yeah, sure.

24 Q On Page 16 subparagraph R...

25 A Yes.

1 Q Okay. So tell me, since Act 106 was enacted  
2 what role has AAFAF played, pardon me, in managing or  
3 administering the Pay-Go system?

4 MR. SUSHON:

5 Object to the form.

6 DEPONENT:

7 The, the Executive Director of AAFAF is the, I think  
8 it is the person of the Retirement Board thus established  
9 and in that capacity he oversees the function of the  
10 Retirement Board, the Retirement Board has an Executive  
11 Director...

12 MR. STEWART:

13 Q Mhm.

14 A ..who the Board designated, Luis Collazo, who  
15 knew, who was or is...

16 Q Mhm.

17 A ...concurrently the administrator of the ERS  
18 system.

19 Q Right. And in terms of calculating the Pay-Go  
20 fee, the Pay-Go charge...

21 A Yes...

22 Q ...what role does AAFAF play?

23 A AAFAF statutorily is the entity that has the  
24 statutory authority to establish the Pay-Go, pay-as-you-go  
25 charge.

1 MR. STEWART:

2 Q Well, he's answered as to another MOU system  
3 which he said was supplanted in part by 106 so I think I  
4 need a clear answer on this but that would be sure just  
5 tell me how...

6 A Let me no, I don't, I refer you to my this, I  
7 mean to my earlier testimony but in essence mainly or  
8 principally the amount that actually goes out to the  
9 pensioners that is basically the, the basis for  
10 computation of the Pay-Go charge.

11 Q The amount that goes out is supposed to be  
12 matched by the amount coming in as Pay-Go fees?

13 A It, obviously when you look at the, and this  
14 calls for a legal interpretation so I refer you to the  
15 functioning of the, of Act 106 as to who's obligation it  
16 is and the first place to remit them who's obligation it  
17 is or who is guaranteeing that the pension actually gets  
18 paid, that's a legal question.

19 Q Mhm. My question was simple...

20 A Mhm.

21 Q ...I thought I understood you but the amount of  
22 the Pay-Go charge is added up or supposed to be the amount  
23 of the pension fees? In other words, the amount of the  
24 inflows is supposed to match the amount of the outflows?

25 A Again, the, the obligation of who, two, there

1 are two things here which are seem to want to link them  
2 that we...

3 Q Mhm.

4 A ..you know, they're linked but or they're  
5 associated but not linked...

6 Q Okay.

7 A ...the pensioners get the pension payment...

8 Q Mhm.

9 A ...and that pension payment is paid by the  
10 Commonwealth, based on that pension payments the actual  
11 employer gets invoiced for whatever got paid or get some  
12 invoice, the Pay-Go charge...

13 Q Mhm.

14 A ...the Pay-Go charge statutory also allows for  
15 Administrative expenses and what have you so it's not just  
16 that but mainly, principally is the, the actual payments  
17 so it gets invoiced, there are as publically has been  
18 disclosed some Municipalities post Maria have had  
19 difficulty paying and some Public Corporations and that's  
20 an issue that the Government is actively working with the  
21 Fiscal Oversight Board to, to correct. So by, you know, if  
22 a municipality doesn't pay that doesn't mean that the  
23 pensioner is not receiving them, the pensioner receives  
24 the money beforehand because the Municipalities were,  
25 repaying what the Commonwealth already paid.

1           Q     Mhm. So you're saying based on the pensions  
2     that there was invoice sent out to employers that's based  
3     on the amount of pensions paid plus some Administrative  
4     and other expenses. I understood you there. Who, who  
5     sends that invoice now?

6           A     I believe this, the actual, the actual  
7     administrators of the systems who had the operational  
8     models know how much it is so they are the ones who  
9     actually do that on behalf of Treasury.

10          Q     So the case of ERSs pensioners it would be ERS?

11          A     Yes, and TRS would be for TRS and so on.

12          Q     Who tells ERS how much the invoice should be?

13          A     I believe the Pay-Go charge is determined by  
14     AAFAF...

15          Q     Okay.

16          A     ...and that incorporates the actual cash out  
17     source that incorporates it.

18          Q     And you said it was what they have, you know  
19     what's the Fiscal Advisory part of AAFAF that determines  
20     the amount?

21          A     Yeah, the operational aspects of it I would  
22     refer you to, to ERS because they're more familiar, you  
23     know, they, I'm not privy to their internal operations  
24     so...

25          Q     What is AAFAF rely...

1           A       ...my testimony is hearsay, it's that, how do  
2       you say it in English?

3       MR. SUSHON:

4           That's a, that's a legal conclusion but with that...

5       MR. STEWART:

6           Yeah, I was gonna say.

7           Q       What does AAFAF rely upon to determine the  
8       amount?

9           A       As I mentioned to you the principally is the  
10       actual payments and I believe they statutorily would allow  
11       to make adjustments to it including, for example,  
12       Administrative expenses and what have you.

13          Q       Aren't the, isn't the amount of the Pay-Go fees  
14       determined one year in advance?

15       MR. SUSHON:

16          Object to the form.

17       DEPONENT:

18          Not, not necessarily, I believe it is based and  
19       again, this is something that needs to be, I don't know  
20       how it did, the mechanics work, we need to address that,  
21       that answer to, that question better said to, to ERS,  
22       they're be in a better position to answer the actual...

23       MR. STEWART:

24          Q       Mmhm.

25          A       ...nuts and bolts of it...

1 Q Mmhm.

2 A ...that I wouldn't be able to do, I'd be  
3 speculating.

4 Q So when I'm asking you about of the amount of  
5 the invoice..

6 A Mmhm.

7 Q ...do you see that AAFAF comes up with you  
8 don't know one way or the other whether the amount of the  
9 invoice reflects payments going, being made in the present  
10 year are payments that are going to be made...

11 A Well...

12 Q ...in a coming year...

13 A No, because...

14 Q ...is that right?

15 A ...what, what happens, you have, you have to  
16 distinguish two things, right, the actual budgeting, we  
17 cannot say, you know, we don't know who's going to retire  
18 when or who's going to die when so you cannot do one  
19 estimate based on, on like the latest information that you  
20 have for budgeting purposes because the budget is, for  
21 example, this year's or next year's Fiscal Budget is going  
22 to be certified sometime by, prior to June 30<sup>th</sup>, right...

23 Q Mmhm.

24 A ...so there you, you had to get the entities,  
25 hey, you know, we think your Pay-Go charge would be X or

1 Y, now if people die faster or if you have additional  
2 people who retired because, remember, at the end of the  
3 day looking into the future is, is more of an actuarial  
4 type exercise...

5 Q Mhm.

6 A ...because we don't know who's going to be  
7 alive or retired in January of 2020...

8 Q Mhm.

9 A ...right? So you have an estimate of that  
10 payment, now, my understanding is that estimate of Pay-Go  
11 is what goes into the budgeting process. Obviously what  
12 goes into the the budgeting process might not end up being  
13 the actual expense because you might, what I just  
14 explained, people might die, people might retire and that  
15 obviously will, will change that so the, you question by  
16 saying "is it annual or is it monthly" I think is a little  
17 bit misleading or imprecise for the reasons I just  
18 described to you.

19 Q Mhm. So in determining the amount that the  
20 Pay-Go charge will be what document does AAFAF rely on?

21 A The ones that we rely on now are obviously we  
22 take the latest Pay-Go charges from, for example, to do  
23 the, the incoming fiscal year, last budget, for example,  
24 you take the latest, the most recent month of Pay-Go  
25 charge which...



1 Q Mhm.

2 A ...presumably reflect the pensioners that were  
3 active or alive and, and retired at that moment and what  
4 we do is we kind of, my understanding is that it gets  
5 combined with the actuarial estimate of what would be the,  
6 the actual charge by or the actual actuarial estimation of  
7 the Retirement Benefits and I believe a, a process of  
8 taking the actuarial estimation and the, this results in  
9 a Pay-Go charge.

10 Q Where does the actuarial estimation come from?

11 A I believe Milliman is the current actuary for  
12 both, for all three systems I believe.

13 Q Mhm. In what form does this information come  
14 from Milliman?

15 A I believe it's letters that we ask them to, to  
16 provide the estimates, they, you know, ERS gives them the  
17 population who died, who, you know, the detail and I  
18 believe Milliman performs their actuarial studies and I  
19 guess they produce on an employer by employer basis, what  
20 they believe the actuarial liability I think they usually  
21 forecast forward a couple of years or something. I'm not  
22 an actuarial, so I refer you to their actuarial reports  
23 which...

24 Q Mhm.

25 A ...which speak for themselves.

1 MR. SUSHON:

2 ...at some point.

3 MR. STEWART:

4 Q But in any event it always comes from Milliman,  
5 correct?

6 A I believe that is the, the actuary that is  
7 engaged currently by the systems.

8 Q And the letters come to you?

9 A Usually I don't know why they keep addressing  
10 that to me but they pop in my e-mail and I forward it to  
11 our, to our consultants but...

12 Q And AAFAF itself does not have these models?

13 A No, that's on the, I think it's a proprietary,  
14 that's what, that's what the business model is a proper  
15 value, proprietary...

16 Q Yeah, proprietary.

17 A ...models.

18 Q So you're relying totally on Milliman?

19 A Yeah, we pay him a lot of money to...

20 Q Yeah...

21 A ...to do that job.

22 Q ...that's kind of a... Okay. Now we take a  
23 break it would give time to go over what I've got..

24 A Alright.

25 Q ...and to do a rechecking...

1           A       Let me go to the bathroom.

2                               OFF THE RECORD

3       COURT REPORTER:

4           Okay. We're ready.

5       MR. STEWART:

6           Okay?

7       COURT REPORTER:

8           Yes.

9       MR. STEWART:

10          Q       Now, let's jump to Page 29, same exhibit. At  
11       the bottom...

12          A       Mmhm.

13          Q       ...it, I think you testified earlier about  
14       something called an administrative fee.

15          A       Yes.

16          Q       Okay. And it refers here to the, this page is  
17       about the "Powers, Authority and Duties of the Retirement  
18       Board."

19          A       Yes.

20          Q       Do you see that title at the top besides 4.2?  
21       So has the board you know just, established and collected  
22       an administration fee every year?

23          A       To the best of my knowledge not yet, I think  
24       they are, as I had mentioned to you the, the Pay-Go charge  
25       is, you know, gets, I guess invoiced based on what

1 actually gets paid and...

2 Q Mhm.

3 A ..you add to it what would be here so this is  
4 still in the RFPRFQ process...

5 Q Mhm.

6 A ...so I would presumably assumed that ones that  
7 gets externalized to the Private Sector then at that point  
8 presumably a fee would be established by the Retirement  
9 Board.

10 Q Are administrative expenses incurred in the,  
11 administering the Pay-Go system today?

12 MR. SUSHON:

13 Object to the form.

14 DEPONENT:

15 I believe that at least in AAFAF that it's being paid  
16 for by AAFAF, we don't, I think it's included...

17 MR. SUSHON:

18 Excuse me.

19 DEPONENT:

20 ...in our budget.

21 MR. STEWART:

22 Q Mhm. Do you know about... go ahead, I'm sorry  
23 to interrupt.

24 A Yeah.

25 Q Do you know if the ERS is paying an

1 administrative fee or receiving an administrative fee of  
2 any sort?

3 MR. SUSHON:

4 Object to the form.

5 DEPONENT:

6 I refer you to the ERS and I'm not privy to their  
7 internal operations.

8 MR. SUSHON:

9 Are we done with Exhibit 10 or we...

10 MR. STEWART:

11 Q Oh, not quite...

12 MR. SUSHON:

13 Okay.

14 MR. STEWART:

15 ...not quite. Mark this as 11.

16 COURT REPORTER:

17 No, this one is 12.

18 MR. STEWART:

19 Twelve.

20 MS. DALE:

21 Twelve?

22 MR. STEWART:

23 Yeah.

24 COURT REPORTER:

25 We haven't used 11 yet.

1 letter...

2 A This is, this is Glen.

3 Q ...yeah, Glen, Glen. The reporter has given  
4 Exhibit 12 is in place in front of you...

5 A Yes.

6 Q ...is this the letter you received from  
7 Milliman?

8 A Yes, it appears so.

9 Q Was Milliman supposed to come up with a study  
10 of administrative expenses?

11 MR. SUSHON:

12 Object to the form.

13 DEPONENT:

14 I don't believe so. I don't remember. Let me see.

15 MR. STEWART:

16 Q Okay.

17 A Yes, this is the, the purpose for this I  
18 believe is the reason why they were requested to do that,  
19 there's, the legislation has a threshold savings to be  
20 able to externalize the services so I would probably  
21 presumably think that this is related to, to that.

22 Q Did AAFAF hire Milliman to conduct any kind of  
23 an analysis of the administrative expenses?

24 A Actually Milliman operates under its contracts  
25 with ERS and TRS...

1 Q Mhm.

2 A ...and AAFAF is a party to that contract and  
3 due to the deliberative process the contract was amended  
4 to reflect that, that we could ask directly and request  
5 from Milliman services without having to go through the  
6 systems.

7 Q And did you ask Milliman to do work involving  
8 administrative expenses?

9 A Appears so.

10 Q And did they do it?

11 A I think, exhibit is not marked but last page of  
12 the, of exhibit 12...

13 Q Okay.

14 A ...provides an estimate, right.

15 Q What's this, a summary?

16 A A summary, yeah.

17 Q Okay. Would you say, I mean, it, this is a  
18 letter they sent to you?

19 A Yes, that's correct.

20 Q And were you able to understand it when they  
21 sent it to you?

22 A Yeah, but, for example, their telling you for  
23 each one of the systems what is the administrative expense  
24 and in the case of TRS they only, I guess, they group  
25 often this and when you look at it you have, for example,

1 an ERS for 2011 the list of expenses were 28.5, other  
2 expense is 18.8 and in 2015 it was 25.9, 43.1 and I guess  
3 they have an average at the bottom.

4 Q Mhm. To your knowledge, is this accurate?

5 A Well, they pay in, I mean, I don't pay, but ERS  
6 and TRS pays him a lot of money to, to be accurate, so  
7 presumably that, that is their job as they were supposed  
8 to do, that's, yes.

9 Q Would you know what the administrative expenses  
10 have been since Fiscal Year 2015-2016?

11 A I would refer you to, to the, to individual  
12 systems.

13 Q You don't have any independent knowledge?

14 A No.

15 Q Okay.

16 A Let's go back to our Exhibit 10 and in  
17 particular Page 30.

18 Q Yes.

19 A There's something about "Transitory  
20 Provisions", do you see that...

21 Q Yes.

22 A ...on Page 30?

23 Q At the right bottom and in section 51-C it  
24 says: "Retirement system administrators shall take all  
25 necessary steps to liquidate their assets and transfer the



1 proceeds to the General Fund" and it goes to talk about  
2 other things. Do you know if ERS in fact has done that?

3 MR. SUSHON:

4 Object to the form.

5 DEPONENT:

6 Besides the pre-funding of the 190 million dollars?

7 MR. STEWART:

8 Q Mhm.

9 A To the best of my knowledge, no.

10 Q Do you know why they have not?

11 A That's privileged.

12 MR. SUSHON:

13 You can answer his question yes or no, it's whatever  
14 you do know, a reason for that.

15 DEPONENT:

16 I, yes I know, it's privileged.

17 MR. SUSHON:

18 Okay.

19 MR. STEWART:

20 Q His answer is you know why but you can't tell  
21 me, is that right?

22 A Exactly.

23 Q Okay. Do you know whether the statute was  
24 amended to allow ERS to not transfer all the proceeds to  
25 the General Fund?

1 A No.

2 Q Do you know...

3 A To the best of my knowledge, no.

4 Q Do you know anything that has happened that  
5 allows them as a matter of law to not transfer all  
6 proceeds to the General Fund?

7 A Yes and it's privileged of deliberative  
8 information.

9 Q It's not, whatever it is, it's not public.

10 A no.

11 Q Okay. Good. Let's do this next. This is...

12 MR. SUSHON:

13 Thirteen.

14 MR. STEWART:

15 Q ...thirteen. Here you go.

16 A Are we finished with this one?

17 Q We're done with that.

18 A Okay. So I put this number 10.

19 MR. SUSHON:

20 We're done with Exhibit 10?

21 MR. STEWART:

22 Q We are done with 10. Mohammad, the reporter's  
23 placed Exhibit 13 before you, the last few pages are the  
24 Spanish version and the first few pages are the certified  
25 translation of it.

1 A Yes.

2 Q Circular letter 13-46-17. Do you have it...

3 A Yes.

4 Q ...before you?

5 A Yes.

6 Q Can you tell me what this is?

7 A This is, if you refer to my prior testimony  
8 when we were discussing the MOU...

9 Q Mhm.

10 A ..this is the circular letter that, I guess,  
11 governs the, provides instructions and governs  
12 implementation of the Pay-Go Retirement System, this is a  
13 circular, a joint circular letter by the Treasury  
14 Department, Central Government Accounting area and ERS.

15 Q Where you involved in the preparation of this  
16 document?

17 A Tangentially.

18 Q What was your involvement?

19 A Nudging them to get it out...

20 Q Anything else?

21 A ...and general advise as to the enactment of  
22 Act 106.

23 Q What was the relation between the circular and  
24 the enactment of Act 106?

25 A The, this letter predates the, the Act 106...

1 Department of Treasury publishes a circular letter it,  
2 it's part of their statutory powers to establish and it  
3 becomes, it is the responsibility of I guess every  
4 secretary and every head of instrumentalities and Public  
5 Corporations and Municipalities to be current with the law  
6 so this is part of the regulation.

7 Q How does the Central Government pay its Pay-Go  
8 charge?

9 A You would need to consult with the Treasury about  
10 that but my general knowledge is, you know, everything  
11 starts with a budget once the budget, and there's a budget  
12 allocation and I believe that internally within Treasury  
13 and they can confirm it and elaborate on it but I  
14 understand its internally within Hacienda, they make an  
15 actual transfer from one side to another to actually  
16 compensate for the payments that amount.

17 Q So it, transfer what one to the other?

18 A Remember that the, a Commonwealth has  
19 retirees...

20 Q Mhm.

21 A ...that they have to do the, I guess, pay in  
22 the pensions so technically speaking those pension  
23 payments go out, then the Government would reimburse that,  
24 would reimburse Hacienda from its budgetary account,  
25 remember, a Government cannot use money that is not

1 budgeted so you need to have the specific budgetary  
2 account to, to compensate for or repay what was paid out  
3 to the pensioners.

4 Q So accounting entries were made reflecting the,  
5 the transfer of the money from a budgetary account to  
6 some other...

7 A I would check with Hacienda if it's an  
8 accounting entry or if it's an actual cash transfer from  
9 an account to another account, that's, that's two nuts and  
10 bolts, you need to check with Hacienda, they would be able  
11 to tell you...

12 Q Okay.

13 A ...but my general understanding is that, you  
14 know, that's the general functionality.

15 Q Yeah. You know who the person was or people  
16 were who wrote this, Exhibit 13?

17 A It says here it's the Central Government  
18 Accounting area. I don't know. Who specifically in the  
19 Central Government Accounting area but I believe that the  
20 person, that Hacienda can tell you specifically who it is.

21 Q Mhm.

22 A I'll refer you to them because I honestly don't  
23 know.

24 Q Were you asked to approve this document before  
25 it went out?

1 Q Do you see there, "Chapter 15, Reduction and  
2 Appropriations to UPR..."

3 A I'm sorry, 132?

4 Q 123.

5 A Ah, 123, I'm sorry.

6 Q Mhm.

7 A Very good, yes.

8 Q See it says "Chapter 15?"

9 A Chapter 15, yes.

10 Q Yeah. Is it part of the Fiscal Plan that the  
11 amount of Commonwealth appropriations to the  
12 Municipalities is to be reduced in the coming years.

13 MR. SUSHON:

14 Objection, beyond the scope.

15 DEPONENT:

16 It, which, which part are you making reference to?

17 MR. STEWART:

18 Q I'm just looking at this part starting on 123  
19 and continuing...

20 A Can you be more specific on...

21 Q Is it part of the Fiscal Plan to your  
22 knowledge...

23 A Mhm.

24 Q ..that the Commonwealth would be reducing in  
25 the coming years its appropriations to the Municipalities?

1           A       Yes.

2           Q       And how do you, how do you...

3       MR. SUSHON:

4           I object, it's beyond the scope. It, Mohammad, let's  
5       pause for a second so I can come to the fact, I have to...

6       DEPONENT:

7           I'm sorry.

8       MR. STEWART:

9           Not a problem.

10       MR. SUSHON:

11           Sorry.

12       MR. STEWART:

13           And how did you come to learn that?

14       MR. SUSHON:

15           Same objection.

16       DEPONENT:

17           I'm, I'm not sure what the question is.

18       MR. STEWART:

19           Q       Before I showed you this document were you  
20       aware of that fact?

21       MR. SUSHON:

22           Same objection.

23       DEPONENT:

24           Yes, I was.

25

1 MR. STEWART:

2 Q How did you become aware of that fact?

3 A That's...

4 MR. SUSHON:

5 Beyond the scope.

6 DEPONENT:

7 ...deliberative in nature.

8 MR. STEWART:

9 Q Okay. Right. Okay. So let's get this one.  
10 Actually let's start with, let's do this one next. And  
11 were down to the last few and we will, and we will be  
12 done. What's the number of that, 15, 16. Let's mark it as  
13 the next exhibit, this document. Mohammad, the reporter's  
14 placed before you Exhibit 16.

15 A Yes.

16 Q Is this the document prepared by AAFAF?

17 A If you represent that it was downloaded from  
18 from our website, yes.

19 Q Does it purport to be...

20 A It purports to be...

21 Q ...prepared by AAFAF?

22 A ...yes.

23 Q And does it have a control number on the lower  
24 right hand corner?

25 A Yes.



1 2017 and post-collection owed Pay-Go certification.

2 Q Mhm. Do you know why AAFAF prepares this  
3 document?

4 A This document is prepared, it, the numbers are  
5 reported by, by ERS which is, which does the, I guess, the  
6 back office on the Pay-Go and the reason is published, I  
7 believe it's part of our, the requirements of the Fiscal  
8 Oversight, our reporting requirements....

9 Q Mhm.

10 A ...required as to, to publish this I believe.

11 Q You mentioned...

12 A Actually here it says Requirement number 6.

13 Q Okay. You mentioned that some of these pages  
14 speak of Pay-Go debt?

15 A That is correct.

16 Q What, do you understand what they mean, these  
17 pages being when they refer to Pay-Go debt?

18 A That probably shows what is the amounts  
19 outstanding that was paid to, to pensioners and that had  
20 not been received from the employer.

21 Q Mhm. Do you mean paid to pensioners or  
22 invoiced to the employer and not paid?

23 A No, you have the, you, when you here have the  
24 invoice, this is what got invoiced and then...

25 Q Mhm.

1           A       ...you have here the actual balance I believe  
2       as of December 31<sup>st</sup> it says here and this is the Pay-Go  
3       one and I saw here that these, the balances of in the  
4       field contributions was...

5           Q       So what is the balance represented?

6           A       I believe, for example, I'm going to just take  
7       the first one, right...

8           Q       Mmhm.

9           A       ...and, for example, balances as of December  
10       31<sup>st</sup>, 2017 and the first one is Senado de Puerto Rico  
11       which is the Puerto Rico Senate...

12          Q       Mmhm.

13          A       ...\$22,981.81 so I guess the Senate of Puerto  
14       Rico has not remitted the December payment.

15          Q       Mmhm. Let's go if we could to the last couple  
16       of pages of the exhibit.

17          A       I assume, yes, of course. The last one?

18          Q       The last two pages.

19          A       Okay.

20          Q       It says: "Comparison of Pay-Go owed amounts...

21          A       Yes.

22          Q       ...as of December 31, 2017...

23          A       Mmhm.

24          Q       ...and       Post-Collection       of       Pay-Go  
25       Certification."

1 A Yes.

2 Q Okay. Do you know what post-collection owed  
3 Pay-Go certification is?

4 A I believe that this is the, on, ERS reported  
5 and certified as of December 31<sup>st</sup> and obviously you have  
6 payments that are flowing...

7 Q Mhm.

8 A ...so, for example, if this was a report that,  
9 this doesn't indicate when the report was made, it just  
10 gives you as of when the report was made...

11 Q Mhm.

12 A ...so I would say the post-certification is  
13 since this is what, what the amount says are owed so it's  
14 assumed that as of December 31<sup>st</sup>, so, for example, if we  
15 go to the example I gave you and the Senate had an amount  
16 and it was agency 101 and if, when you come here, I'm just  
17 quickly running through this, I don't see it here, so,  
18 which means that a payment was received from the Senate  
19 posterior to the balance as of December 31<sup>st</sup> so that's why  
20 it doesn't appear.

21 Q So let's look at this page...

22 A Yeah, sure.

23 Q ...okay.

24 A Which one would be next?

25 Q The second one from the back.

1 A Okay.

2 Q Do you know whether this, if something shows as  
3 a debt if it's just two weeks late or how much of a  
4 break...

5 A It's not an issue as to week, you have thirty  
6 days to effectuate the payment so...

7 Q I see.

8 A ...it gets booked as a receivable, it's just in  
9 the current columns, right...

10 Q Right.

11 A ...so, you know...

12 Q So you said...

13 A ...it's not outstanding, it's not past due debt  
14 it's total debt, so if it's not an aging.

15 Q Mmhm. So you just said the invoices go out on  
16 the 15<sup>th</sup> of each month?

17 A I believe so but ERS can confirm the mechanics.

18 Q Mmhm. And that payment is due within thirty  
19 days you said...

20 A I believe so...

21 Q ...that too?

22 A ...that the ERS can, can confirm for you, okay.

23 Q So what do we have, we've dealt with this one,  
24 this is the next, right? Eighteen, yeah. Exhibit 17,  
25 another AAFAF report.

1           A       That, I'm not sure if that's the total because  
2       this is, the header of this says that it's one million or  
3       above so to, to be able to ascertain how much is owed you  
4       need to know, number one, the total report, not the subset  
5       and number two, we would also need to know what is the  
6       subsequent collection activity.

7           Q       Mmhm. As of the day of this, of, this refers to  
8       a report AAFAF issued, correct?

9           A       I am but I don't know which reported.

10          Q       Right.

11          A       ...first, that's why I'm asking you.

12          Q       Right.

13          A       It's difficult for me to opine on, on, without  
14       having...

15          Q       To your knowledge, are AAFAF's reports  
16       accurate?

17          A       They are, they reflect what ERS provides in the  
18       reports. ERS is the one who actually maintains the...

19          Q       Mmhm.

20          A       ...the Operating Systems so we believe that ERS  
21       represents to us they accurate and as such we publish it.

22          Q       Could you, you rely upon the information that  
23       comes to AAFAF from the ERS?

24          A       And that functionality right now has been  
25       transitioned to the office of the CFO as part of some of

1 activity...

2 MR. STEWART:

3 Q Mhm.

4 A ...so you have to be, you have to look, when  
5 you're looking at these reports which are lagging...

6 Q Mhm.

7 A ...you need to, when you make statements you  
8 need to account for the fact that they're not audited and  
9 that they are lagging in nature...

10 Q Mhm. Under Municipalities the total is  
11 \$127,750,000.00?

12 A I don't know. Because I have...

13 Q Is that what it says?

14 A Yeah, I mean, that's what it reads but...

15 Q Okay.

16 A ...right below it says "other Municipalities"  
17 and I'm not sure to what date this reserves and I'm not  
18 sure if this reflects the latest collections so for me to  
19 ascertain a level of debt without knowing the timing...

20 Q Mhm.

21 A ...and the base from which we are referring is,  
22 would be speculative at best.

23 Q Do you have any reason to believe these numbers  
24 are not accurate?

25 A I would assume that the Board is, when they

1 make the presentations they do their due diligence but you  
2 should refer that question to the Fiscal Oversight Board.

3 Q As I'm, now I'm referring to you. Do you have  
4 any reason to believe...

5 A I have not seen, I have not seen the Board  
6 misrepresent facts if that answers your question.

7 Q Okay. This letter goes on to direct "delinquent  
8 entities", direct the managing entities to certify the  
9 debt of each delinquent entity, do you understand what  
10 that's in reference to?

11 A Where are you?

12 Q Page 3, if you look at the paragraph that  
13 begins with the word "According."

14 A Yes.

15 Q Okay. It says here: "Accordingly..."

16 A Mhm.

17 Q ...the Board or its designee or the managing  
18 entity shall certify the debt of each delinquent entity",  
19 and it goes on to say what it's to be done.

20 A Yes.

21 Q Do you see, see that?

22 A Yes.

23 Q Do you know what is meant in the phrase  
24 "certify the debt of each delinquent entity?"

25

1 MR. STEWART:

2 Q Okay. I'll put a different... under the Joint  
3 Resolution 188 one of the, one of the mechanisms is the  
4 means by which delinquent accounts can be collected,  
5 correct?

6 A Joint Resolution 188 was superseded by the  
7 statutory language of 106.

8 Q 106. Okay.

9 MR. SUSHON:

10 So I object, it's beyond the scope.

11 MR. STEWART:

12 Q Okay. are there mechanisms on 106 to enforce  
13 delinquencies?

14 A I think the law speaks for itself so I would...

15 Q Would you know what they are?

16 A Not at the top of my head, no.

17 Q So, let's go over to ask you if, if a non-  
18 lawyer would ask you at work you wouldn't be able to give  
19 them an answer to that question?

20 A The non-lawyer answer would be that there are  
21 robust collection mechanisms that were incorporated into  
22 Act 106.

23 Q And if that non-lawyer said "tell me more about  
24 them" what would you say?

25 A I would refer then to that, so...